Judge Rodgers currently serves the Northern District of Florida as a magistrate judge. She received a ''well qualified'' rating from the American Bar Association, having proven her qualifications in the district in which she will serve, on the bench, in private practice, and in her community. Prior to becoming a lawyer, Judge Rodgers served for several years in the United States Army and received several commendations for her service.

With tonight's vote on Judge Rodgers' nomination, the Senate will have confirmed a total of 165 judicial nominations of President George W. Bush. Despite all of the false charges of obstruction leveled by the White House and Republican Senators, we have now reached a historic level of confirmations of judicial nominations.

In less than 3 years, President Bush has now equaled the total number of judges appointed by President Reagan in his first 4 full years in office. Republicans tout President Reagan as the ''all-time champ'' in judicial appointments and yet he attained 165 confirmations at the conclusion of his first 4-year term in office, while President Bush has achieved the same benchmark in less than 3 years in office. President Reagan's entire first term saw a Republican Senate majority enabling the President to achieve that milestone. That Democrats in the Senate have cooperated with President Bush to exceed it is extraordinary and reveals the truth about the confirmation process. Only a few of the most extreme of President Bush's judicial nominees have been blocked.

Of course, you will not hear Republican Senators or the White House tell the public today that this historic level of appointments has been reached, that President Bush has matched President Reagan's first-term judicial appointments with 15 months remaining in his term. You will not hear that truth from this administration. The Senate has opposed only the most extreme nominees and has moved cooperatively and expeditiously on less controversial nominees.

The record will reflect that Democrats have worked hard to balance the need to fill vacancies on the Federal bench with the imperative that the judges chosen will be fair to all people. With this confirmation, there are now only 40 vacant seats in the Federal bench. Until this year, this mark had not been reached in 13 years or during the entire Clinton administration, when more than 50 judicial nominees were blocked from receiving confirmation votes. Had we not authorized almost 20 judgeships last year, the vacancies might be in the 20's.

President Bush is on pace to appoint judges far in excess of those of any other President in American history. In fact, this President has had so many vacant seats to fill because Senate Republicans did such an effective job of blocking scores of Clinton nominees with impunity. When I became chairman of the Judiciary Committee in mid-2001, we inherited 110 vacancies. In a little more than 2 years since then Democrats and Republicans have worked together to confirm 165 judicial nominees of President Bush. The White House and the Republicans in the Senate refuse to declare themselves victorious in their efforts to appoint a historic number of judges chosen by the President. They insist on seeing the glass half empty, when it is nearly full to the brim. They refuse to take any steps to address the fact that fully 20 percent of President Clinton's judicial nominees were blocked from getting votes when Republicans controlled the Senate. In those 6 years, they allowed only 248 judicial nominees to be confirmed and blocked another 63. Today, in less than 3 years, President Bush has achieved what it took President Reagan four full years to achieve 165 judicial confirmations.

Nominations from bipartisan selection commissions can proceed expeditiously. Judge Rodgers received a committee hearing within weeks of her paperwork being completed and she will be confirmed less than a month after her hearing. Her confirmation could have occurred even sooner since she has been pending on the floor for several weeks but I am happy that the majority leader has decided to turn to her confirmation this afternoon.

Judge Rodgers' appointment to the district court in the Northern District of Florida will bring her legal career full circle since her first job out of law school was as a judicial clerk on this very court. I am pleased to cast a vote for her confirmation today and I congratulate Judge Rodgers and her family.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, am I in order to speak on the class action tort reform legislation?

The PRESIDING OFFICER. The Senator is in order.

CLASS ACTION FAIRNESS ACT OF 2003—MOTION TO PROCEED—Resumed

Mr. GRASSLEY. I am pleased that the Senate is finally reaching the point of moving ahead with this very important legislation. We call this the Class Action Fairness Act of 2003 because, quite frankly, everything dealing with class action lawsuits—maybe I should not say everything because I admit there is a very important role in some instances for class action lawsuits, but the way the regime is working out now is very unfair, particularly in instances where consumers get practically nothing and lawyers representing the class get millions.

That is not an occasional happening. That is happening quite regularly. So the current class action system is rife with problems which undermine the rights of both the plaintiffs and defendants alike; hence, our legislation. Class members are often in the dark about their rights, with class lawyers driving lawsuits and driving the settlement. Class members receive court and settlement notices in hard-to-understand legalese. Many class action settlements only benefit the lawyers, with little or nothing going to the class members. We are all familiar with class action settlements where the plaintiffs received coupons of little value or no value, and the lawyers received all the money available in the settlement agreements.

More and more, we are seeing lawyers bringing frivolous lawsuits which are of no real interest to class members but are just a bonanza of quick and easy legal fees for the class lawyers because companies want to settle those cases rather than expend lots of money in frivolous litigation defense.

I have been invited into class action lawsuits. One gets a notice in the mail, probably because they did business with a particular company. Maybe it is because I am in agriculture and a family farmer that I might get some notices of this, but I can speak to the fact that—and obviously I hope people know I am not a lawyer, but the legalese that comes in these notices informing you why you might possibly be a member of a class, or you might possibly benefit, quite frankly I do not give those notices much consideration. Maybe I should. Maybe there is a jackpot out there that I could get something out of. I do not know.

It really is not very inviting to the people who may have been injured. Even if it is inviting, and they join it and they win, they could get a coupon; whereas the lawyers are going to get millions of dollars.

In addition to current class action rules, the current ones are such that a majority of the large nationwide class actions can only proceed in our State courts, when these are clearly the kinds of cases that should, in fact, be heard in Federal courts. It makes sense that these class action cases have the opportunity to be heard in Federal courts because these cases involve lots of money, citizens from all across the country, and issues of nationwide interest.

To further compound the problem, the present rules are easily gamed by

unscrupulous lawyers who steer class actions to certain preferred State courts where judges are quick to certify a class and approve a settlement with little regard to class member interest and the parties' due process rights. For example, class lawyers manipulate pleadings to avoid removal of the lawsuit to Federal court by claiming that their client suffered under $75,000 in damages in order to avoid meeting a Federal threshold, even though their client may have suffered greater injury. Class lawyers craft lawsuits to defeat the complete diversity requirements by ensuring that at least one named class member is from the same State as the defendant.

These are just a few of the games that are played and the gamesmanship tactics that we have heard of that lawyers like to utilize to bring down the entire class action legal system.

The Class Action Fairness Act that is before us will address some of the most egregious problems with the class action system; yet preserving class action lawsuits is an important tool which brings representation to the unrepresented.

I will briefly summarize what this bipartisan bill does. First, the act requires that notice of proposed settlements in all class actions, as well as all class notices, must be in clear, easily understood English and must include all material settlements, including amounts and sources of attorney's fees.

When that happens, and I get one of those notices, I am going to read it and maybe I can make a decision that I ought to join that class. But I am not going to mess around with trying to have some lawyer interpret to me whether or not I ought to be in a class action lawsuit when I get those notices.

These notices that most plaintiffs receive are written in small print and in confusing legal jargon. Since plaintiffs are giving up their right to sue, it is important that they understand what they are doing and the ramifications of their actions.

Second, this act requires that State attorneys general, or other responsible State government officials, be notified of any proposed class settlement that would affect the residents of their State. This provision helps protect class members because such notice would provide these State officials with an opportunity to object if the settlement terms are unfair for their citizens.

Third, this act disallows bounty payments to lead plaintiffs so lawyers looking for victims cannot promise them unwarranted payoffs to be their excuse for filing a suit. The bill also prevents class action settlements that discriminate on the basis of geography so that one plaintiff does not receive more money than other class members who have been equally injured just because that plaintiff lives near the courthouse.

Fourth, the act requires that courts closely scrutinize settlements where the plaintiffs only receive coupons or noncash awards while the lawyers get the bulk of the money. The bill requires the judge to make a written finding that the settlement is fair and reasonable for class members. A court will still be able to find that a noncash settlement, as in the case of injunctive relief banning some type of bad conduct, is fair and reasonable, but a court would also be able to throw out sham settlements where lawyers get big paychecks while the plaintiffs get nothing or, as I have said before, worthless or almost worthless coupons.

The bill also requires the judicial conference to report back to Congress on best practices in class action cases and how to best ensure fairness of a class action settlement. Finally, the Class Action Fairness Act allows more class action lawsuits to be removed from State court to Federal court, either by a defendant or even by an unnamed class member. However, the bill is drafted to ensure that truly local disputes would continue to be litigated in State court. Current law provides that class lawyers can avoid removal of a class action to Federal court if the individual claims are $75,000 or less, even if hundreds of millions of dollars in total are at stake, or if just one class member is from the same State as the defendant.

Our bill would eliminate the ''complete diversity'' rule but leave in State court class actions with fewer than 100 plaintiffs, class actions that allow less than $5 million, class actions in which a State entity is a primary defendant, and class actions brought against a company in its home State if two-thirds or more of the class members are residents of that State.

We have been working on finding a fair solution to the class action problem for several years. For the past four Congresses, Senator KOHL, Senator HATCH, and others have joined me, as the main sponsor of this bill, in studying the problems with the class action system and working on a way to deal with such egregious abuses of our tort system.

Over the years, the House and Senate Judiciary Committees have convened numerous hearings on these class action abuses, making very obvious the need for reform. The House has passed similar versions of the class action bill in several Congresses, and they have done it with strong bipartisan support, so frankly I don't understand why we are running up against opposition on the other side to even bringing this bill up for discussion.

In the Senate, in the 105th Congress, I held hearings in the Judiciary Committee's Administrative Oversight Subcommittee and then marked up the first Grassley-Kohl class action bill. In the 106th Congress my subcommittee held another hearing on class actions and the Judiciary Committee marked up and reported out class action legislation. The Judiciary Committee held a hearing on class actions in the 107th Congress, and in this Congress the Judiciary Committee marked up the language of the bill we are considering today.

Chairman HATCH, Senator KOHL, and I worked closely with Senator FEINSTEIN of California to make sure that more in-State class actions stayed in State court. We also worked with Senator SPECTER to make sure his concerns relative to class actions were also addressed.

The bill then was approved by the Judiciary Committee and it was approved on a solid, bipartisan vote. I wanted to elaborate on the history of this bill to show how much time Congress has spent on the problems with our class action system and all the work and all the compromises that have been put into this bipartisan bill.

The Class Action Fairness Act has garnered increasing support over the years and I expect it will receive even greater support now with the significant changes we have made in the Judiciary Committee several months ago. We need class action reform badly. Both plaintiffs and defendants alike are calling for change in the area of tort and class actions. The Class Action Fairness Act is a good, modest bill that will help curb many problems that have plagued the class action system. The bill will help class members know what their rights are, increase their members' protection, and ensure the approval of fair settlements. It will allow nationwide class actions to be heard in the proper forum, and that is the Federal courts, but keep primarily State class actions where they ought to be, in State court.

It will preserve the process, but put a stop to the more egregious abuses. It will also help to put a stop to the more frivolous lawsuits that are very much a drag on the economy.

I hope we can proceed to this bill. We are very happy to consider amendments. This bill is something that has had so much work on it over the last four Congresses that it should move ahead. The situation has not improved any during that period of time. In fact, TV magazine-type programs are full of stories about continuous abuse of the tort class action system. We have situations where someone, a lowly county judge in some State, is making a decision that is applicable to all 50 States in a way that should not be done by one isolated judge. These are cases that should be decided at the Federal level and have something that is going to be a Federal policy applying to all 50 States done by a Federal court as opposed to a county court system.

There are a lot of things we can say about this bill, but it is about time. I would think there would be some embarrassment on the other side of the aisle, considering the fact of the bipartisan support of this bill in the House of Representatives and how it has come out of our Senate Judiciary Committee with solid, bipartisan support, considering modifications that have been

made for Democratic Senators who were not part of the original bipartisan coalition putting this bill together, that the legislative process is working, the Senate is working its will, and now we are up against what could be a stone wall of resistance that is unjustified.

I hope we can move forward. We will find out with votes very shortly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1751, with all first-degree amendments relevant to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, this is a very important piece of legislation. A significant majority of Senators on this side of the aisle want to do something about this legislation which is known as the class action legislation. But we are terribly disappointed with the procedure that has been used to get us to where we are. For example, Senator BREAUX has been one of our point people on this and has worked very hard to try to get the issues resolved. Everyone knows how fair he is and how he is the dealmaker here in the Senate.

For this and many other reasons, on behalf of many Senators on this side, we reluctantly object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, on behalf of the majority leader, I send a cloture motion to the desk to the pending motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1751, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Bill Frist, Orrin G. Hatch, Charles Grassley, George Allen, Kay Bailey Hutchison, Rick Santorum, Susan M. Collins, Elizabeth Dole, Lindsey Graham of South Carolina, Wayne Allard, Pat Roberts, John Ensign, Thad Cochran, John Warner, Jon Kyl, John E. Sununu, Saxby Chambliss.

Mr. MCCONNELL. Mr. President, the vote on the motion to invoke cloture will occur on Wednesday of this week.

I now ask unanimous consent that the live quorum as required under rule XXII be waived.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LVMPD VOLUNTEER PROGRAM

Mr. REID. Mr. President, I rise today to pay tribute to a group of people who are giving their time and energy to make southern Nevada a better place to live.

Like every other city in the Nation, the city of Las Vegas faces the challenge of providing essential services on a tight budget. And the most essential service of all is public safety.

This challenge is particularly difficult in the Las Vegas area, which is adding more than 6,000 new residents a month. While the national average is about 2.5 police officers for every thousand residents, we have only 1.7 officers per thousand in Clark County.

Simply put, we need more police officers in Las Vegas and Clark County. There is no easy answer to this problem—but fortunately there are hundreds of people who have become part of the solution.

The Las Vegas police department sponsors a Metro Volunteer Program that allows citizens to assist police officers in a variety of tasks, from assisting tourists to arranging for abandoned vehicles to be towed.

Some of these volunteers visit schools to present programs on safety and crime prevention, while others compile databases that are used to track crimes and solve cases.

For every hour that a volunteer performs one of these tasks, that is another hour that a sworn police officer is out on the street fighting crime.

Over the past year, 318 volunteers contributed more than 42,000 hours of service to the Las Vegas Metro Police Department. That is the equivalent of 21 full-time police officers on the street, who would not be there otherwise.

In this way, the Metro Volunteer Program is making our community safer. So I salute the volunteers on behalf of all of the citizens of Clark County. I also salute Sharon Harding, the coordinator of the Metro Volunteer Program, and Sheriff Bill Young, who is always looking for ways to better protect and serve the citizens of Clark County.

ELECTIONS IN AZERBAIJAN

Mr. MCCAIN. Mr. President, on October 15, citizens of Azerbaijan went to the polls to elect their next president. The months and days leading up to the election were characterized by extremely biased media attention for the pro-presidential Yeni Azerbaijan Party, YAP, and government-sponsored intimidation and harassment of the opposition parties. The U.S. Government and the OSCE expressed serious concern about the preelection environment to the highest levels of Azerbaijan's Government. Our advice went largely unheeded, and grave levels of government interference and intimidation continued through election day.

I traveled to Azerbaijan just before the election to meet with Azerbaijani political leaders to discuss these concerns. I told then-Prime Minister Ilham Aliyev in the clearest possible terms that the international community was carefully watching his actions and expected a democratic outcome. I also met with a range of opposition leaders and assured them that we shared their concerns and were working to encourage the government to hold elections consistent with internationally recognized standards.

On election day, the OSCE and U.S. government brought in over 600 international election observers and deployed them nationwide. Although a number of areas were peaceful and orderly, observers noted many violations of the new Unified Election Code, UEC. Violations included ballot stuffing, multiple voting, harassment at the polling station by authorities, incomplete voter lists, and a lack of regard for the procedural process of ballot tabulation.

The undemocratic and blatant disregard for the UEC in both the preelection period and on election day led to civil unrest in Baku as the final ballot counts were being made public. The night of the election and the following days showed citizens coming together in protest in large numbers in response to the election's failure to meet international standards. Reports continue to come in of severe and sometimes fatal violence against journalists and political activists. Not only has the government has not met its obligation to uphold law and order, but the government's security forces are largely responsible for the violence.

This presidential election was a chance for Azerbaijan to demonstrate its commitment to the democratic process. Despite the new election code, the ruling party chose to retain power at all costs and to ensure that its candidate received nothing short of an overwhelming victory. The United States will have to review its interest in deepening strategic relations with an Azerbaijani regime that does not enjoy the full legitimacy a free and fair election confers. We should step up American assistance to the democratic opposition in Azerbaijan and continue to work to deepen civil society as a bulwark against the state. The government in Baku must know that the United States values our relations with